

COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

COUNCIL UPDATE – ACCESS TO SAFE DRINKING WATER AND SANITATION HUMAN RIGHTS COUNCIL, 12TH SESSION 16 SEPTEMBER 2009

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Overview

The Independent Expert on the issue of human rights related to access to safe drinking water and sanitation, Ms Catarina de Albuquerque, presented her annual report focusing on the right to access to sanitation. She also presented a report and a preliminary note on two country missions undertaken this year to Costa Rica and Egypt. She also outlined the activities within the three focus areas of her mandate; namely the collection of good practices, recommendations for the realisation of the Millennium Development Goals (MDGs); and analysing the human rights obligations related to water and sanitation.

The interactive dialogue was very positive with the majority of States supporting the focus on access to sanitation and welcoming the Independent Expert's recommendations. However not all of the States took up the main recommendation to recognise access to sanitation as a distinct human right. Some questions were raised concerning the human rights obligations related to sanitation and Ms de Albuquerque responded by outlining further planned activities to concretise State obligations.

Presentation by the Independent Expert

The Independent Expert on the issue of human rights related to access to safe drinking water and sanitation, Ms Catarina de Albuquerque, presented her annual report focusing on the right to access to sanitation.¹ The Independent Expert presented the outcomes of the two country missions she undertook this year to Costa Rica and Egypt.²

In relation to the visit to Costa Rica she highlighted the remarkable progress made by the State to improve access to safe drinking water and sanitation. However, she called upon Costa Rica to address difficulties concerning the adaptation of the legal framework. The Independent Expert furthermore urged the clarification of competency and

¹ A/HRC/12/24.

² A/HRC/12/24.Add.1 (Mission to Costa Rica) and A/HRC/12/24/Add.2 (Mission to Egypt).

responsibility within state institutions to effectively apply norms and guidelines. She also highlighted diverging access to safe drinking water and sanitation in rural and urban areas, for marginalised and discriminated groups, such as the poor, indigenous people, people of African origin and migrants. Ms de Albuquerque highlighted Egypt's commitment to ensure access to water for everyone, but pointed to challenges such as the quality of drinking water, access to sanitation, affordability, water scarcity, disparities between rural and urban areas, and between formal and informal habitations.

The Independent Expert outlined the main steps taken in the three focus areas of her mandate to collect good practices on access to water and sanitation, recommendations for the realisation of the Millennium Development Goals, especially goal number 7,³ and analyse human rights obligations related to access to water and sanitation. This year's report examines in more detail State obligations related to access to sanitation. The Independent Expert pointed out that with 2.5 billion people lacking access to improved sanitation the world is facing a sanitation crisis. According to the Independent Expert, sanitation is closely related to human dignity and is an 'implicit component of the right to an adequate standard of living'.⁴ She therefore proposed to consider access to sanitation as a distinct human right. Regardless of differing opinions on this proposal, she stated that there are clear human rights obligations related to access to sanitation. The report sets out both these obligations and clarifies what States are not required to do.

Ms de Albuquerque concluded her statement by calling on States, development agencies and UN institutions to give sanitation high priority. Furthermore she pointed out the need to take measures to overcome discrimination and to ensure gender equality with regards to sanitation.

Statements by concerned countries

Costa Rica generally thanked for the recommendations made by Ms de Albuquerque and announced that it is considering passing a new law on water. Egypt also welcomed the Independent Expert's visit and recommendations and acknowledged the challenges she had identified. In regard to the service provision of drinking water Egypt clarified that the Government does not intend to privatise such services, but on the contrary continually expands the subsidy of water delivery, especially in rural areas.

Interactive dialogue with the Independent Expert

The majority of States appreciated the report of the Independent Expert and acknowledged the importance of sanitation in relation to the enjoyment of human rights. States also generally expressed satisfaction with how Ms de Albuquerque exercises her mandate, and in particular welcomed the possibility to participate in the discussion of human rights obligations related to access to sanitation through an expert consultation in April.⁵

Most countries supported the outline of human rights obligations related to sanitation, but requested clarification on some issues. Sweden, on behalf of the European Union (EU), as well as Italy, Germany and Switzerland asked for more information on the division and aspects of the roles of private sector and non-state actors. Ms de Albuquerque clarified that according to the recommendations in her report States are not obliged to provide sanitation for free but should promote a supportive environment. Regarding the role of the private sector, she announced her intention to address this issue next year.

In general the majority of States agreed on the priority of full access to sanitation and its crucial influence on numerous human rights, but only a few explicitly joined the proposal of Ms de Albuquerque to consider access to sanitation as a distinct human right in itself, namely China, Norway and Spain. While generally supporting the

³ Millennium Development Goal, Target 7c: Reduce by half the proportion of people without sustainable access to safe drinking water and basic sanitation.

⁴ The right to an adequate standard of living is guaranteed in Article 25 of the *Universal Declaration of Human Rights* and Article 11 of the *International Covenant on Economic, Social and Cultural Rights*.

⁵ Germany and Sweden (on behalf of the EU).

outline of human rights obligations with regard to access to sanitation in the report, the United States of America however did not share the detailed conclusions and definition of States' obligations. Even though Brazil stressed that sanitation is part of fundamental human rights, it was the only country that explicitly considered the present discussion on sanitation as a distinct human right as inadequate, and argued that other human rights issues needed to be addressed first. The Norwegian Centre for Human Rights did not support the introduction of access to sanitation as a distinct human right as it believed that is always connected to the right of water. It called upon the Independent Expert to define basic/minimum standards that States should comply with regarding access to sanitation, and while ensuring equal access. The Netherlands asked about concrete ways in which States could at all levels of legal and political development strategies support a broader recognition of sanitation as a distinct human right. In response, the Independent Expert stressed that States could adopt specific legislation, and at the international level the Council could recognise access to sanitation as a human right.

Germany further asked for information on the potential financial and personal benefits of investing in sanitation. In response, the Independent Expert stated that the costs and benefits of access to sanitation were partly described in her report, and recalled a study that showed that each dollar invested in water and sanitation would return a gain of eight dollars. She also repeated statistics on lost school days, increase of illnesses, and increased use of hospital beds as a result of lack of access to proper sanitation.

Some countries raised concerns about possible discrimination in access of sanitation. Norway highlighted the need to address gender patterns of access to sanitation caused by gender-specific division of labour especially within the household. Spain requested more detailed information on how the needs of disabled people can be addressed, particularly when it comes to physical barriers. NGOs raised concerns regarding access to sanitation for vulnerable groups, such as internally displaced persons and women.⁶ *Provedoria dos Direitos Humanos e Justica de Timor-Leste* and the African Network of Human Rights Institutions expressed concern on poor access to clean water for people in police detention in East Timor. Furthermore the intensifying of conflict over water was addressed.⁷

The Independent Expert concluded highlighting the importance of participation of all concerned groups in policy making and stressed that a bottom-up approach would guarantee greater success.

Further information

For further information on the Human Rights Council, please consult the following resources:

- Follow ISHR on Twitter: [@ishr_geneva](https://twitter.com/ishr_geneva).
- Web site of the International Service for Human Rights, providing up-to-date information before, during and after sessions of the Council: <http://www.ishr.ch/council>. During the session, ISHR will provide information about the Council's proceedings on a regular but not daily basis. You can subscribe to receive alerts of our publications by sending an email to information@ishr.ch.
- Oral statements made at the Council, as well as other informal documents and draft resolutions are available on the 'OHCHR extranet' at <http://portal.ohchr.org/portal/page/portal/HRCExtranet>. Username: 'hrc extranet' Password: '1session'.
- Web site of the Office of the High Commissioner for Human Rights (OHCHR) on the 12th session of the Human Rights Council: <http://www2.ohchr.org/english/bodies/hrcouncil/12session>. For direct access to reports considered, check <http://www2.ohchr.org/english/bodies/hrcouncil/12session/reports.htm>.

NGOs and human rights defenders seeking more specific information or individual advice on the Council session, please contact the ISHR secretariat by email or phone at +41 (0) 22 919 71 00.

⁶ Statements by the International Educational Development Inc. and the International Club for Peace Research

⁷ The International Club for Peace Research

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